

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

. . . . .  
BARBARA E. VARNER, .  
Plaintiff, . CIVIL ACTION  
 . NO. 1:CV 01-0725  
vs. .  
 .  
COMMONWEALTH OF PENNSYLVANIA, . (JUDGE YVETTE KANE)  
NINTH JUDICIAL DISTRICT, .  
CUMBERLAND COUNTY; CUMBERLAND .  
COUNTY; S. GARETH GRAHAM, .  
Individually, and JOSEPH .  
OSENKARSKI, individually, .  
Defendants. .  
. . . . .

Deposition of: WILLIAM A. BRANDT

Taken by : Defendant Cumberland County Court

Date : April 4, 2003, 9:30 a.m.

Before : Emily Clark, RMR, Reporter-Notary

Place : Cumberland County Courthouse  
One Courthouse Square  
Carlisle, Pennsylvania

APPEARANCES:

DEBRA K. WALLET, ESQUIRE  
For - Plaintiff

ADMINISTRATIVE OFFICE OF PENNSYLVANIA COURTS  
BY: A. TAYLOR WILLIAMS, ESQUIRE  
For - Defendant Commonwealth of Pennsylvania  
Ninth Judicial District, Cumberland County

THOMAS, THOMAS & HAFFER  
BY: JAMES K. THOMAS, II, ESQUIRE  
PAUL J. DELLASEGA, ESQUIRE  
For - Defendant Cumberland County

1 APPEARANCES (continued):

2 MONTGOMERY, McCRACKEN, WALKER & RHOADS, LLP  
3 BY: L. KRISTEN BLANCHARD, ESQUIRE  
4 For - Defendant S. Gareth Graham

5 SWEENEY & SHEEHAN, P.C.  
6 BY: PAUL LANCASTER ADAMS, ESQUIRE  
7 For - Defendant Joseph L. Osenkowski

8  
9 ALSO PRESENT:

10 MS. BARBARA E. VARNER

11 MR. S. GARETH GRAHAM

12 MR. JOSEPH L. OSENKARSKI

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1 I N D E X

2 WITNESS

3	William Brandt	Examination
4	By Mr. Dellasega	4
5	By Mr. Adams	47
6	By Ms. Williams	56
7	By Ms. Wallet	59

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10 EXHIBITS

11 (None marked)

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1 STIPULATION

2                   It is hereby stipulated by and between the  
3           respective parties that sealing, certification and  
4           filing are waived; and that all objections except as to  
5           the form of the question are reserved until the time of  
6           trial.

8 WILLIAM BRANDT, called as a witness, being  
9 duly sworn, was examined and testified, as follows:

10 BY MR. DELLASEGA:

11 Q Mr. Brandt, my name is Paul Dellasega, I represent the  
12 county in this matter.

13 Have you testified before in any proceeding, sir?

14            A.            No.

15 Q In any court proceeding?

16 A. In something of this matter? Or just generally?

17 Q Have you ever testified?

18       A.       Yes, sir.

19 Q Okay. Have you ever been deposed?

20            A.            No.

21 Q Okay. You understand that if we ask you a question, if  
22 you don't understand the question, you should tell me  
23 that?

24 A. Okay.

25 Q All right? And if you answer it, we'll assume you did

1 understand the question?

2 A. (Witness nodded head affirmatively.)

3 Q When were you first hired by the county?

4 A. 1990.

5 Q In what capacity?

6 A. As an intern originally, and then eventually as a  
7 probation officer.

8 Q As an intern in the Probation Department?

9 A. Correct.

10 Q When you became a probation officer, were you probation  
11 officer 1?

12 A. Actually, the confusion is that I started as a probation  
13 officer but not with full benefits for a period of two  
14 months. But eventually, yes, as a probation officer 1,  
15 within the 1990 year.

16 Q Let me ask you this. What is your date of hire?

17 A. That's also very confusing. It's either August of '90  
18 or October of '90, depending on who you ask.

19 Q All right. Why would some people contend it's August of  
20 '90?

21 A. I would, because I was a full-time probation officer in  
22 August of 1990; however, it was not with benefits paid  
23 by the county. October 13th of '90 is when I became  
24 full-time with benefits as a probation officer 1.

25 Q When were you hired as an intern?

- 1 A. June 4th of that year.
- 2 Q So you were an intern for two months --
- 3 A. Correct.
- 4 Q -- roughly, and then you became a probation officer
- 5 without benefits?
- 6 A. Correct.
- 7 Q And two months later, you became a probation officer
- 8 with benefits?
- 9 A. Correct. I actually covered for a gentleman, another
- 10 probation officer who was fighting in Desert Storm for
- 11 August and September of that year, and it worked out
- 12 that I covered for him at that time period.
- 13 Q When you came in as an intern, were you a college
- 14 graduate?
- 15 A. I had walked through graduation in May. I had to
- 16 complete my internship to actually fulfill my practicum,
- 17 but technically, no, I didn't graduate until August.
- 18 Q Had you previously been employed by the county?
- 19 A. Never.
- 20 Q By the court?
- 21 A. No.
- 22 Q By any county?
- 23 A. No.
- 24 Q By any court?
- 25 A. No.

- 1 Q Was this your first job after college?
- 2 A. Correct.
- 3 Q As an intern were you a regular full-time employee of
- 4 the county?
- 5 A. Yes, I was.
- 6 Q Did you receive benefits?
- 7 A. No, I did not.
- 8 Q How did your status change from intern to probation
- 9 officer without benefits?
- 10 A. I don't think I understand that question, how did it
- 11 change?
- 12 Q After two months you stopped being an intern.
- 13 A. Correct.
- 14 Q And became a probation officer who did not get benefits.
- 15 A. Correct.
- 16 Q How did that change in status come about?
- 17 A. I don't understand what you mean by status. I mean, I
- 18 had assumed a caseload.
- 19 Q One day you were called an intern and the next day you
- 20 were called a probation officer, correct?
- 21 A. Correct.
- 22 Q And you changed in title --
- 23 A. Correct.
- 24 Q -- from intern to probation officer --
- 25 A. Correct.

1 Q -- who happened not to have benefits. How did what  
2 change in title come about?

3 A. As I explained, Dave, another probation officer, got  
4 called to war, and I fulfilled his obligations during  
5 the period of time of August and September, part of  
6 October, until another position became available within  
7 the Department. Then I was hired full-time at that  
8 time.

9 Q When did your title change next from probation officer 1  
10 to something else?

11 A. I honestly can't answer that. '97? '6, '7, '8, I'm not  
12 sure.

13 Q What change occurred? What change in title occurred?

14 A. I had become a senior.

15 Q And when did you next experience a change in title?

16 A. I never did again.

17 Q You are currently a senior probation officer?

18 A. Correct.

19 Q Is there such a title as probation officer 2?

20 A. Yes, there is.

21 Q You are not a PO-II?

22 A. Correct.

23 Q Do you have the same title as Mrs. Varner does, correct?

24 A. I believe so.

25 Q When you were first hired in between '91 and '95, the



1 Juvenile and Adult Departments were one department; is  
2 that correct?

3 A. Correct.

4 Q Did you primarily work Juvenile or Adult?

5 A. I did both.

6 Q Where do you work now?

7 A. Juvenile.

8 Q When the split occurred, did you immediately go to  
9 Juvenile?

10 A. Correct.

11 Q And you've been in Juvenile continuously since --

12 A. Since '96 I believe it was.

13 Q When did you first meet Mr. Graham?

14 A. My guess is my first day as an intern. I don't think I  
15 knew Gary before that.

16 Q Was Mr. Graham influential in any way in your change in  
17 title from intern to probation officer?

18 A. He could have been. I don't -- he certainly could have  
19 been. I don't know if he, in fact, was.

20 Q Do you know whether he was influential in any way in  
21 your change in title to probation officer with benefits?

22 A. No. I don't think that -- that was simply by rule by  
23 the county as a full-time employee.

24 Q Do you know whether he was influential at all in your  
25 change in title to senior probation officer?

- 1 A. He probably was.
- 2 Q Do you know what that influence was?
- 3 A. I think he was in favor of it.
- 4 Q And you think that because of what information?
- 5 A. He was my supervisor at the time, and I'm not aware of
- 6 any hardships between Mr. Graham and myself that would
- 7 have created a position where I couldn't have been
- 8 accepted for that or denied, that I'm aware of.
- 9 Q When did Mr. Graham become your supervisor?
- 10 A. I guess when we -- when the office split, I believe.
- 11 Q Prior to the split, did he have any supervisor capacity
- 12 over you?
- 13 A. In the role of a probation officer 2, I believe. He
- 14 would be asked to do supervisory duties in the absence
- 15 of a supervisor, and I know that on many occasions I had
- 16 to go to him as a superior officer.
- 17 Q It would be your sense that he functioned as a de facto
- 18 supervisor on a number occasions --
- 19 A. Absolutely.
- 20 Q -- prior to the split?
- 21 A. Absolutely.
- 22 Q And who was your formal supervisor prior to the split?
- 23 A. For Juvenile or Adult side?
- 24 Q Juvenile.
- 25 A. Mr. Osenkowski.

- 1 Q And for Adult?
- 2 A. John Roller.
- 3 Q When did you first meet Mrs. Varner?
- 4 A. As an intern.
- 5 Q And how did you meet her?
- 6 A. She worked in Children and Youth as a caseworker. I
- 7 don't know that we shared cases, but I met her because
- 8 of close proximity to our offices.
- 9 Q Did you ever share any cases with her prior to her
- 10 joining the Probation Department?
- 11 A. My goodness. I'm sorry, I don't know that we did. We
- 12 may have.
- 13 Q You don't recall having any?
- 14 A. Correct.
- 15 Q Did you ever have any formal business dealings with her?
- 16 Or did you simply know her as a colleague in another
- 17 department prior to the split? I mean, prior to her
- 18 coming on board as a probation officer.
- 19 A. Knew her as a friend of someone who I was dating at the
- 20 time, also a Children and Youth caseworker, and that's
- 21 primarily how I knew Barb.
- 22 Q Did you ever know Mrs. Varner or did you ever see
- 23 Ms. Varner in the probation office while she was at CYS?
- 24 A. Oh, yes.
- 25 Q For what purposes would she be there?

1 A. I would assume professional reasons, sharing cases with  
2 Juvenile probation officers.

3 Q From your observations of her when you saw her as a CYS  
4 worker and a probation officer, can you identify the  
5 probation officer she was working with?

6 A. No.

7 Q Did you ever see her work with Mr. Graham?

8 A. I really couldn't remember.

9 Q Do you have any knowledge of whether she or Mr. Graham  
10 shared cases while she was in CYS?

11 A. No.

12 Q Did you ever see her and Mr. Graham talk to each other  
13 or interact with each other in any way --

14 A. Yes.

15 Q -- before she was hired as a probation officer?

16 A. Yes.

17 Q What did you see?

18 A. I saw normal conversation. At the time I actually  
19 shared my office, this is as an intern, I shared an  
20 office with Mr. Osenkarski during that summer. And in  
21 Gary's capacity as a PO-II and someone who I described  
22 close with Joe, he was in that office a great deal of  
23 time. And I recall Barb being in that particular office  
24 on various occasions, having conversations with us.

25 Q When you observed Mr. Graham and Mrs. Varner having

1           conversations while together while she was a CYS  
2           employee, did you observe any hostility between them?  
3    A.    No.  
4    Q    Any antagonism of any kind?  
5    A.    Not that I recall.  
6    Q    Did you ever see Mr. Graham being polite to her?  
7    A.    I assume. I don't recall anything different.  
8    Q    From your own personal observation.  
9    A.    Yes.  
10   Q    Did you ever observe Mr. Graham to raise his voice at  
11       her?  
12   A.    No.  
13   Q    Yell at her?  
14   A.    No.  
15   Q    Say anything offensive towards her?  
16   A.    No.  
17   Q    Treat her with anything other than respect?  
18   A.    Correct.  
19   Q    Did they seem to have a good working relationship, to  
20       you?  
21   A.    I don't know that I evaluated it in that depth, but I  
22       assumed so, yes.  
23   Q    Did you see anything that would indicate the absence of  
24       a good working relationship?  
25   A.    No.

- 1 Q Did you see any hesitency or reluctance on the part of  
2 Mrs. Varner to work with Mr. Graham?
- 3 A. No.
- 4 Q Did you ever know them to go on business trips together  
5 while she was in CYS?
- 6 A. No.
- 7 Q Did you ever observe them to have coffee or soda or a  
8 snack together in the lunch room or coffee room?
- 9 A. I don't recall.
- 10 Q Did you ever observe or hear Mr. Graham comment about  
11 her abilities while she was a CYS employee?
- 12 A. No.
- 13 Q Did you ever hear Mr. Graham recommend her for hire in  
14 the Probation office while she was a CYS employee?
- 15 A. Not to me. I don't know if he recommended her or not.  
16 I don't recall him making that statement to myself.
- 17 Q Do you know that he recommended her to anyone else for  
18 hire within the Probation office?
- 19 A. I wouldn't be privy to that information. I don't know,  
20 really.
- 21 Q When she was hired, was there any discussion within the  
22 office that you participated in as to who had sponsored  
23 her or urged her hiring within the office?
- 24 A. Not to my recollection.
- 25 Q By the way, all the questions I've asked about Graham's

1 interaction with Mrs. Varner during that period of time,  
2 would that be true for Mr. Osenkarski with respect to  
3 raising his voice to her, was not abusive?

4 A. Yeah, I don't recall any.

5 Q To be more specific, during that same period of time,  
6 which is again while she was a CYS employee, did you  
7 ever observe Mr. Graham do anything that would in any  
8 sense of the word constitute sexual harassment towards  
9 Mrs. Varner?

10 A. Not in my presence.

11 Q Did you hear any other employee describe any conduct --  
12 again, this is during the time when she was a CYS  
13 employee -- any conduct by Mr. Graham that in the  
14 broadest sense of the word could constitute sexual  
15 harassment?

16 A. I don't believe so.

17 Q Did you ever hear the phrase Barb 1 and Barb 2 used  
18 within the office?

19 A. Within the office, yes.

20 Q What was your understanding of that phraseology?

21 A. That was something in jest, designating Mr. Graham's  
22 wife and Mrs. Varner.

23 Q Who was Barb Varner?

24 A. I wouldn't know which was which.

25 Q When you say it was in jest, what was the jest? What

1 was the content of the jest?

2 A. I don't recall using it even myself, but as I said, I  
3 recall hearing it. And I could very well be confusing  
4 what's taken place in the last seven years compared to  
5 prior to that, so I -- to think specifically what was  
6 the joke, I don't recall.

7 Q Who did you hear using that phrase, do you recall? Is  
8 it something that you heard frequently?

9 A. No.

10 Q More than 10 times?

11 A. Probably.

12 Q Did you ever hear Mr. Graham use that terminology,  
13 Barb 1 or Barb 2?

14 A. No.

15 Q You never inquired yourself as to what the joke was with  
16 regard to the use of that phraseology?

17 A. Did I understand what it was?

18 Q Did you ever inquire of anybody else as to why are they  
19 saying Barb 1 and Barb 2?

20 A. No, but I certainly understood its meaning.

21 Q And other than the fact it was the two Barbs, did you  
22 understand anything else about its meaning?

23 A. Certainly.

24 Q What else did you understand?

25 A. Are we talking about a time period that's still while



1 Mrs. Varner is at CYS?

2 Q Yes.

3 A. No. I've never heard it at that time.

4 Q While she was a CYS employee did you ever hear anyone

5 within the office speculate that Mr. Graham and/or

6 Mrs. Varner and Mr. Graham were anything other than

7 business colleagues?

8 A. Never.

9 Q Never heard any rumors, suggestion or speculation that

10 they dated or had any kind of sexual --

11 A. No.

12 Q -- connotation to their relationship?

13 A. No.

14 Q And never thought so yourself?

15 A. Again, as a CYS worker?

16 Q Yes.

17 A. No.

18 Q Did you ever hear Mr. Graham talk about having affairs

19 with anyone?

20 A. No.

21 Q Has he ever divulged to you that he had an affair?

22 A. No.

23 Q Has he ever divulged to you that he had any interest in

24 any woman other than his wife?

25 A. Well, Gary and I shared a friendly relationship at one

1 time where we joked about maybe a college fling or  
2 something like that, but anything post marriage, I  
3 don't -- no, emphatically no.

4 Q You say you shared a friendly relationship at one time.

5 A. I would say from the day I was hired as an intern up  
6 until shortly before his departure from the Juvenile  
7 office. Friendly, I would say friendly.

8 Q Nonetheless, you used past tense. Do you have a  
9 friendly relationship with him today?

10 A. I don't -- not anything on my part, but I'm fearful  
11 that, no, we do not have any friend -- we no longer have  
12 a friendly relationship.

13 Q How did the relationship change?

14 A. We don't have contact.

15 Q Was there any change in it other than you don't have  
16 contact?

17 A. Not on my part.

18 Q On Mr. Graham's part?

19 A. Only through what I hear from friends, statements that  
20 are said.

21 Q Nothing that he has ever personally said to you?

22 A. Never in words, no.

23 Q In anything other than words?

24 A. I don't think he -- he has displayed behavior or just  
25 gestures that I can, that I would take that he is not

1 happy with me.

2 Q Can you tell me what those gestures are?

3 A. Maybe the way he looks at me in passing, the few times  
4 we've had passing. Or I know on occasion -- I work a  
5 second and third job, actually performing security where  
6 his daughters go to school, and I have to have passing  
7 with him and I can -- it's obvious that he has  
8 displeasure for my presence. But he has done nothing to  
9 harm me.

10 Q What have you heard from third parties?

11 A. That his displeasure for me speaking possibly or having  
12 anything to do with his departure from the office.

13 Q Did you have anything to do with his departure from the  
14 office?

15 A. Absolutely not. I spoke with Judge Hoffer, who demanded  
16 that I meet with him, and we spoke about Gary.

17 Q Do you recall when this was?

18 A. I couldn't remember the date but I can tell you I  
19 remember the day very well.

20 Q Tell me what you remember about the day.

21 A. I was about to have a six-month review hearing for a  
22 person placed in Philadelphia. Courtroom was full of  
23 people. I can remember the kid. Judge Hoffer came out  
24 of chambers, pointed at me, said: Get in my office now.

25 Everyone looked at me as if what did you do now.

1 And I proceeded to go Judge Hoffer's chambers, where we  
2 had a very long conversation while the entire courtroom  
3 waited for us for over an hour to maybe closer to two  
4 hours.

5 Q Tell me what you recall about that one- to two-hour  
6 conversation.

7 A. Surprisingly, there wasn't any question of Barb dating  
8 Gary and the relationship between the two of them. I  
9 don't think he -- if he did, I apologize, but I don't  
10 remember him even asking that.

11 Q Okay.

12 A. He wanted to know more on the lines of who does what  
13 within your department. And it was as if he was for the  
14 first time trying to learn our hierarchy and whose  
15 performance and who's responsible for and those types of  
16 questions.

17 Q Would this conversation have been after the split?

18 A. I believe so. I believe it was in '97.

19 Q So when he was asking who does what, it was who does  
20 what within Juvenile Probation?

21 A. Correct. I'm sorry.

22 Q What else do you recall about the conversation?

23 A. I really think it was more generated towards  
24 Mr. Osenkowski than it was towards Mr. Graham.

25 Q Tell me what you recall him asking about Osenkowski and

1           Graham.

2       A.     Okay.  What he does between 8:00 and 4:30 every day, and  
3           is he accountable and does he perform many tasks.  Is  
4           he -- how long has he been or hasn't he been, and who's  
5           performing what tasks when he's not available.  And who  
6           is powerful and who is not, and so forth and so on.

7                 To answer specifics, I mean, we're going back quite  
8           some time, so bear with me.  But it was more geared  
9           towards our administration, Juvenile again, than  
10          anything else, and certainly any relation between these  
11          two.

12       Q     Did he ask the same type of questions about Mr. Graham?

13       A.     He did, because the response, my answers were, you know,  
14           Gary was certainly as much involved in running the  
15           department as Mr. Osenkowski and all those capacities  
16           and such.  So, I mean, in a sense, speaking about one  
17           and the other was synonymous.

18       Q     Did he ask you whether there was any misconduct within  
19           the office?

20       A.     No.

21       Q     In particular, did he ask you whether you had ever  
22           observed anything inappropriate from the standpoint of  
23           sexual harassment?

24       A.     No.

25       Q     Did he ask you whether any foul language was used on a

1 routine basis or otherwise?

2 A. Other than what Judge Hoffer was using, no, I don't  
3 recall that.

4 Q Did he ask you whether women were treated differently  
5 than men in any respect in the office?

6 A. No. No.

7 Q Did he ask you whether the supervisors were harsher on  
8 women than they were on men?

9 A. I don't believe so.

10 Q Did he ask you whether any probation officers were  
11 singled out for harsher treatment than others?

12 A. I don't believe so.

13 Q Did he ask you whether there were any favorites within  
14 the department?

15 A. No.

16 Q Did he ask you, did the name Barbara Varner come up at  
17 all, to your recollection, during that --

18 A. I don't think so. I don't believe.

19 Q Did this conversation occur after you had heard that  
20 Mrs. Varner had filed some type of complaint regarding  
21 Mr. Graham?

22 A. I know things were getting heated within our very small  
23 office, keeping in mind things spread like wildfire.  
24 But the series of events, I could just say I -- things  
25 were happening. What that means exactly, it was at a

1 time where things were beginning to become tense within  
2 the department, and I don't recall exactly the time  
3 frame, I'm sorry.

4 Q When you used the phrase "time when things were  
5 beginning to become tense," at some point in time did  
6 there come a change in your department, increasing  
7 tension?

8 A. Keeping in mind, again, how small our office is, yes,  
9 and the parameters.

10 Q Describe when that changed, to the best of your ability.

11 A. Well, it was very obvious that Barb and Gary were  
12 singled out as being involved in whatever it was at the  
13 time, and many were not privy to what exactly it was.  
14 And it was obvious that both were upset.

15 I recall a period of time where Gary did nothing to  
16 me but there was a period of time where he was obviously  
17 not approachable because he was visibly upset with  
18 whatever was going on. That didn't mean I couldn't go  
19 to him for something work-wise throughout the course of  
20 day, but he was obviously distraught over something.

21 Q And this was a change as compared from prior years  
22 within the office?

23 A. Yeah. We had a very jovial office.

24 Q And if you were asked to put a year on when this change  
25 occurred?

- 1 A. It was within that time frame.
- 2 Q '97?
- 3 A. Bear with me, but in a broad sense, yes.
- 4 Q All right. Was it after the split?
- 5 A. Definitely.
- 6 Q Okay. And the split was in early '95?
- 7 A. No. I thought it was in '96. I believe it's in '96.
- 8 Q You would know better than me. Was it several months
- 9 after the split?
- 10 A. It could have been a series of things that started at
- 11 one point. But again, my recollection, picking up what
- 12 I knew, I mean, yes, possibly, but I don't know. It
- 13 could have been going on longer, I don't know.
- 14 Q From your perception, did Mr. Graham and Mr. Osenkarski
- 15 have favorites in the office at that point in time?
- 16 A. As far as personal friends?
- 17 Q People who were favored in any respect regarding terms
- 18 and conditions of employment.
- 19 A. They were much closer with certain people than others,
- 20 yes.
- 21 Q Did you from your own personal observation come to the
- 22 conclusion at the time you were talking to Judge Hoffer
- 23 that Graham and Osenkarski favored any people with
- 24 regard to getting better treatment than other similarly
- 25 situated probation officers?



1       A.     I may answer that question differently now than I would  
2             have actually to Judge Hoffer then. But to senior  
3             members of the Juvenile staff at that time and myself  
4             not being a senior member at that time, my perception  
5             would have been they had a gravy detail in comparison to  
6             what I had at the current time. If we were able to move  
7             to 2003 I'm sure there's a lot of 20-year-olds  
8             downstairs who think I'm sitting in a gravy position as  
9             we speak. So, perception and age may have changed my  
10            opinion on that.

11       Q     Is a gravy position reduced caseload?

12       A.     I wouldn't say reduced caseload, but it's not difficult  
13             to determine the volatility of a case at the beginning,  
14             and should one set of people get -- it would be very  
15             hard to put this in and show this for anyone to  
16             understand it, but comparing apples to apples, those of  
17             us in the profession, we would understand who has a more  
18             difficult caseload, so to speak, in terms of more  
19             difficult juveniles versus someone who is supervising a  
20             phrase I use, cupcake type kids who do not require quite  
21             the level of supervision.

22       Q     And to the degree that you observed this distinction, it  
23             was between old timers and newer probation officers?

24       A.     Myself being a newer one at the time, relatively  
25             speaking.

- 1 Q Was the distinction, in your mind, limited to the  
2 distinction between old timers and new officers? Or  
3 political allies and political enemies?
- 4 A. It just so happened that it was more senior members. So  
5 in your words, the two specifically older employees who  
6 had the positions of intensive officers at the time who  
7 had many more years of working there than myself, I, my  
8 opinion was that they were given a much lighter detail  
9 than myself. But now again, looking back at that  
10 through older eyes I understand how perceptions change.
- 11 Q When Mrs. Varner first came on board as a probation  
12 officer, did you at that time observe her interactions  
13 with Mr. Graham?
- 14 A. I'm sorry, I didn't understand the second part.
- 15 Q When she first came on board as a probation  
16 officer, did you observe her interactions with Graham at  
17 that time?
- 18 A. Yes.
- 19 Q All right. And did she seem to work more closely with  
20 Graham than other senior probation officers?
- 21 A. I don't believe I was a senior probation officer at the  
22 time, I believe Barb came in '95. But to answer your  
23 question, my opinion was, yes, she did work closer with  
24 him.
- 25 Q And how would you describe their working relationship

1           when they were both probation officers together?

2       A.    Very friendly.

3       Q    Can you explain that in any greater detail?

4       A.    There was a period of time, I don't know the length,  
5           that there was obviously some type of relationship.  And  
6           I use that word in the broadest sense, I'm not  
7           insinuating, but there were certainly friendly  
8           relations.  And it was for a long period of time, maybe  
9           a year or more, and they certainly spent a lot of time  
10          together.

11               Now, to make sure we understand, I mean, my office  
12          partner and I have been together for 13 years, and  
13          someone could say that he and I spend a lot of time  
14          together more so than me and my wife, unfortunately.  So  
15          that could be just out of -- I say that in a very broad  
16          sense of relationship.

17       Q    There are office partners who get along better with each  
18           other than other office partners; is that right?

19       A.    Yes, sir.

20       Q    All right.  And you're saying that the relationship  
21           between Graham and Varner appeared to be one that was a  
22           very friendly working relationship, they got along  
23           extremely well together?

24       A.    Yes.

25       Q    And from your observation, those feelings were mutual?

1 A. Yes.

2 Q But your observations did not include any sexual

3 overtones?

4 A. No.

5 Q And that relationship at some point changed?

6 A. Yes, it did.

7 Q It had changed, in looking back at it from the vantage

8 point of several years, was that change an abrupt

9 change?

10 A. I didn't see any signs of a change, but there was a day,

11 a specific day which seemed to be a change. Don't ask

12 me the date because I wouldn't recall, but there was one

13 day specifically where there appeared to be great

14 hostility.

15 Q The change was abrupt enough it seemed almost overnight

16 to you; is that what you're telling me?

17 A. Yeah. I didn't see anything from my vantage point that

18 changed their relationship.

19 Q But nonetheless, you observed a change?

20 A. Yes.

21 Q In a sense there was almost an overnight change?

22 A. Correct.

23 Q That's what you're saying, okay. And after you observed

24 that overnight change, how did Mr. Graham treat

25 Mrs. Varner?

1       A.     I think he was -- he distanced himself from her. But I  
2             didn't see from firsthand knowledge him treating her in  
3             any manner -- they were not friendly any longer, but I  
4             didn't see anything from, again, my point where it was  
5             anything other than there was a separation.

6       Q     You personally didn't see him yell at her?

7       A.     I heard him on one occasion, and again, the day where  
8             there was a -- something significant changed, where the  
9             two of them were alone in an office in the middle of our  
10            main office, so it would be very difficult for many not  
11            to have heard it had you been in the Department on that  
12            specific day, and again, I don't know the day, where the  
13            both of them were very upset. And I don't know if it  
14            was yelling but it was definitely above normal  
15            conversation that everyone could hear. The details, I  
16            don't know. And it was something that went on, whatever  
17            the conversation was, I recall coming in and out of my  
18            office and it was still continuing. So it wasn't a  
19            30-second thing, it's something that took place for a  
20            while.

21      Q     But you didn't hear any detail of the conversation?

22      A.     I didn't want to, to be honest with you.

23      Q     I understand that you didn't want to. Did you  
24             nonetheless hear any detail of the conversation?

25      A.     Not that I recall.

- 1 Q Do you have any idea what the dispute was about?
- 2 A. No, not at all.
- 3 Q Did the dispute seem mutual?
- 4 A. That's hard to answer. Like myself --
- 5 Q Let me rephrase it. Did the tone of voice of both
- 6 parties appear upset or agitated?
- 7 A. Gary's did. But Gary has much like myself, speaks very
- 8 loudly so that the entire office will hear it. And that
- 9 was par for the course for either me or Gary. So it was
- 10 loud. And he gets very excited when he discusses
- 11 things, and so I don't think it was completely out of
- 12 the norm for Gary.
- 13 Q How about Mrs. Varner, was her tone of voice out of the
- 14 norm for her?
- 15 A. Well, she was behind closed doors, and she doesn't have
- 16 a voice that carries like Mr. Graham's, so I don't
- 17 remember hers.
- 18 Q I had understood you to mean that it sounded like both
- 19 were upset, and what I'm trying to get at is what you
- 20 know about how Mrs. Varner exhibited being upset.
- 21 A. As I said, both their voices seems to be elevated, and
- 22 that's the only way I could offer that I knew that both
- 23 were not having an average day.
- 24 Q But other than that, you do not recall Mr. Graham
- 25 yelling at Mrs. Varner?

1 A. Other than that day?

2 Q Yes.

3 A. No.

4 Q All right. Do you ever recall Mr. Graham doing anything

5 towards Mrs. Varner after that day which in the broadest

6 sense of the word would constitute sexual harassment?

7 A. No.

8 Q Did you ever recall Mr. Osenkarski, by the way, ever

9 doing anything towards Mrs. Varner that in the broadest

10 sense of the word would constitute sexual harassment?

11 A. I don't recall, no.

12 Q Did you ever observe Mrs. Varner being treated in a

13 manner you thought was unfair after that day by

14 Mr. Graham?

15 A. No.

16 Q By Mr. Osenkarski?

17 A. No.

18 Q Have you ever observed any female probation officer

19 being treated in a manner that you thought was unfair by

20 either Graham or Osenkarski?

21 A. No.

22 Q Your conversation with Judge Hoffer, how did it end?

23 A. About as violently as it began. I refused to answer any

24 of his questions to begin with. He and I have a

25 personal relationship, so it was very -- or difficult.

1 I think he told me that should I need to come talk to  
2 him any longer or anymore, that his door was open, which  
3 that's par for the course.

4 Q I'm sorry, please continue.

5 A. I don't recall exactly how it ended, but something,  
6 should I need to approach him about anything that we  
7 discussed, that his door was open.

8 Q Did you have any understanding at the time of that  
9 conversation whether the Varner-Graham dispute was a  
10 catalyst for the conversation?

11 A. Sure.

12 Q And what was your sense of why it was a catalyst?

13 A. Well, if I recall, my knowledge is fairly limited, but  
14 if I recall, before Judge Hoffer became president judge,  
15 this was an issue that was before Judge Sheely. The  
16 details of what took place in front of Judge Sheely, I  
17 don't recall. But I remember that -- my thoughts were  
18 he had made a final determination on this in some way,  
19 he retired, Judge Hoffer became president judge, and all  
20 of a sudden this was an issue again before Judge Hoffer.  
21 So, yes, I had some prior knowledge, but I don't know  
22 that I knew intimate details.

23 Q Did Judge Hoffer tell you at the end of the conversation  
24 he was going to implement any changes?

25 A. Absolutely not.



1 Q Were you aware that Mr. Graham had been suspended by  
2 Judge Sheely for three days?

3 A. I think. There's a -- it's common knowledge now. I  
4 don't know if I knew at the time. I believe I did,  
5 because there was a joke in the office that he was  
6 suspended with pay, and we -- I'm sorry to bore you, but  
7 we joked that if we ever want to get suspended in the  
8 office we hope that it's with pay, I would take that  
9 kind of suspension. So that's the jest and that's the  
10 context how I knew that he was suspended.

11 Q In what context did you understand the reason for the  
12 suspension?

13 A. I knew it was involved with Barb in some shape or form  
14 but I didn't know details.

15 Q When did you first become aware of any allegation,  
16 contention or rumor that a sexual affair had existed  
17 between the two?

18 A. I think during their friendship, the period of time that  
19 I would describe as a friendly relationship.

20 Q And in what sense did you become aware? Was it  
21 something --

22 A. I think anyone of reasonable suspicion, maybe I'm not,  
23 but seeing a man and a woman spending that much time  
24 together that hadn't previously, there was thoughts in  
25 the back of my mind that is this something that's more

1           than -- is this extracurricular.

2       Q     All right. And was that a thought you ever heard  
3           anybody else articulate?

4       A.     Sure.

5       Q     Okay. Was that a thought you heard articulated  
6           generally within the office?

7       A.     Yes.

8       Q     And were there adherents both pro and con as to whether  
9           or not an affair was going on?

10      A.     I think everyone stayed the hell out of it, quite  
11           frankly. I don't recall. I think it was just general  
12           suspicions and the rumor mill of an exceptionally small  
13           office.

14      Q     When the relationship changed so abruptly between them  
15           as you've described, was there any subsequent rumor that  
16           the affair must have ended, to explain this sudden  
17           change in the relationship?

18      A.     Yes, but I mean, no one knew anything firsthand.

19      Q     But there was speculation about it?

20      A.     There was a lot of hypothesizing, yes.

21      Q     Did Mrs. Varner ever discuss with you that she was going  
22           to file a complaint against Graham for sexual  
23           harassment?

24      A.     I don't recall.

25      Q     Has she ever discussed her current case with you?

- 1 A. No. She may have -- I don't recall us having a  
2 conversation in detail. No, I really don't think we've  
3 really talked about it other than maybe I had a, you  
4 know, a hearing or someone else had gone through this  
5 and she mentioned that I would be next, or something  
6 like that. But nothing in depth.
- 7 Q Has she ever asked you to provide any assistance with  
8 regard to this litigation?
- 9 A. No.
- 10 Q Indicated that you would be called to testify as a  
11 witness on her behalf or as part of this litigation?
- 12 A. I don't believe so.
- 13 Q Have you ever talked to her attorney, Ms. Wallet, about  
14 any facts regarding this case?
- 15 A. No.
- 16 Q Have you ever provided any written statement to anybody  
17 regarding the facts of this case?
- 18 A. I met with an attorney, as many of us did, many years  
19 ago downstairs somewhere. I don't recall the  
20 gentleman's name; I could picture him.
- 21 Q Other than that attorney, have you ever provided a  
22 statement to anybody?
- 23 A. No.
- 24 Q Within the Probation office is the use of bad language  
25 common?

1 A. Unfortunately. Myself guilty as well.

2 Q And is that something that's limited to the male  
3 probation officers, or is it both genders?

4 A. I think it's a product of the horrible environment that  
5 we work with.

6 Q So it would be both genders?

7 A. Yes.

8 Q And can you describe for me that horrible environment?

9 A. Well, we deal with people who inflict harm on others on  
10 a daily basis, and go into the homes that others would  
11 feel are very -- less desirable, and common language for  
12 them is four-letter words. And I think to a certain  
13 degree, whether you like it or not, you begin to assume  
14 some of that.

15 Q So the routine day-in/day-out environment within the  
16 Probation office is different from a regular business  
17 office not involved in the criminal justice procedure?

18 A. I would argue -- well, not in a police department, but I  
19 would argue that, yes.

20 Q And would you argue that such an environment is more  
21 stressful than --

22 A. Absolutely.

23 Q And that the job of a probation officer is more  
24 stressful inherently than somebody not involved in the  
25 criminal justice system?

1 A. It's something we all bring on ourselves differently,  
2 but I would argue again, yes, that it would be.

3 Q Prior to the split, what was your understanding of how  
4 seniority was calculated in the combined Adult and  
5 Juvenile Probation Department?

6 A. My understanding from day one was years of service with  
7 the county.

8 Q Inside and outside of probation?

9 A. Correct. So if a maintenance man came to the Department  
10 not possessing even the prerequisites for our position,  
11 he would be more senior on the list than someone who had  
12 his doctorate.

13 Q Did that seniority system change at or about the time of  
14 the split?

15 A. Let me -- I'm not aware of any in-writing policy other  
16 than what I described to you was Judge Sheely's policy.  
17 And I never heard Judge Sheely say that out loud. And  
18 we were -- it was never tested, either, so that was  
19 something that we assumed. And there are many things we  
20 assumed on a day-to-day basis that never get tested.  
21 So, that was a very -- we don't know if that was the  
22 seniority but that was my understanding of it.

23 Q You did mention a written document, though?

24 A. Never prior to the split.

25 Q Oh, okay. But prior to the split, no written document?

- 1 A. Correct.
- 2 Q Just kind of a vaguely understood concept it was
- 3 seniority within the county --
- 4 A. To my recollection, correct.
- 5 Q -- regardless of the type of county employment?
- 6 A. Correct.
- 7 Q And that did change at or about the time of the split?
- 8 A. I believe so.
- 9 Q How did it change?
- 10 A. I believe someone within the Juvenile administration
- 11 came up with their own policy, and I know that the Adult
- 12 side as well came up with their own policy.
- 13 Q And within Juvenile, how did it change?
- 14 A. I don't know the details, but I believe it's time spent
- 15 within our department.
- 16 Q Is there a written document now?
- 17 A. I've heard there is. I've never seen it.
- 18 Q You've never seen it, okay. At or about the time of the
- 19 split did Mr. Boyer ever comment, discuss with you the
- 20 issue of seniority and whether it should be changed and
- 21 if so, what your view would be on how it should be
- 22 calculated?
- 23 A. Ad nauseam.
- 24 Q What do you recall of those conversations?
- 25 A. That our seniority would be date of hire within the

1 department.

2 Q And you were asked your opinion about that?

3 A. I usually give my opinion. I don't recall being asked.  
4 I possibly offered.

5 Q What would your opinion offered have been?

6 A. That I agreed with that, or years of probation  
7 experience outside of our department as well.

8 Q As a consequence of the change that was implemented, was  
9 your seniority affected?

10 A. I've been told that it was, yes.

11 Q What have you been told?

12 A. I was told that mine was delayed as a result of -- a  
13 promotion that I was instructed that I would receive,  
14 that it was delayed as a result of questioning the  
15 current seniority policy.

16 Q Well, let me ask you this. Before the split were you  
17 senior or junior to Mrs. Varner, to your knowledge?

18 A. That would have been an opinion question, and yes, I  
19 would have believed myself to be senior based on my  
20 years of probation experience.

21 Q Before the split?

22 A. Correct.

23 Q Okay. And after the split?

24 A. The same.

25 Q The same, all right. So as far as you're concerned, the

1 change in the seniority system did not affect where you  
2 stood with regard to Mrs. Varner on the seniority list?

3 A. If there is such a hierarchy, yes.

4 Q All right. When your promotion was delayed did you  
5 understand in any way, shape or form that Mrs. Varner's  
6 situation played any factor in the delay of your  
7 promotion?

8 A. Yes.

9 Q What is your understanding?

10 A. That she was questioning my promotion in front of hers,  
11 because she was questioning the seniority policy, I  
12 think, quoting Judge Sheely's opinion of what his was.  
13 Any details past that I don't think I recall.

14 Q Did Osenkarski ever discuss that with you?

15 A. Yes.

16 Q Do you recall him telling you anything other than what  
17 you've just told us?

18 A. No.

19 Q All right. Did Graham ever discuss that with you?

20 A. I don't remember if Gary was still in our department at  
21 that time.

22 Q How about Boyer?

23 A. Ad nauseam, yes.

24 Q When you finally were promoted to senior probation  
25 officer, was Mrs. Varner promoted at the same time?



- 1 A. Same day.
- 2 Q Same day, okay. Sitting here today, who is more senior?
- 3 A. I am.
- 4 Q Sitting here today, what benefit does that seniority  
5 provide to you?
- 6 A. Nothing.
- 7 Q Why do you say nothing?
- 8 A. The unfortunate part within this county, not only  
9 department-wide but maybe county-wide, is that the next  
10 senior person has always been the next to get promoted.  
11 Maybe that person's not so deserving, but that's just  
12 the chain of events. So, I don't know that -- I hope  
13 that our department has made a change in that thinking  
14 in the future, but as far as what does it get me?  
15 Nothing. It doesn't give me anything additional on my  
16 paycheck or any more or less support from those below  
17 me.
- 18 Q I'll put it to you this way. Vis-a-vis you and  
19 Mrs. Varner, does your spot ahead of her on the  
20 seniority list provide you any advantage in promotion,  
21 to your understanding?
- 22 A. Under the old school of promotion, maybe, because if I  
23 am, in fact, ahead of her, then I would be next in line  
24 for whatever became available. So possibly.
- 25 Q The old school was what?

- 1 A. The next in line gets the next available position  
2 regardless of performance.
- 3 Q All right. And regarding promotion, is that rule  
4 currently in effect, or as you call it, the old school  
5 rule?
- 6 A. We haven't had a position become available for some  
7 time, so it's hard to say whether or not. And Judge  
8 Hoffer would be the one who would finalize that based on  
9 Mr. Osenkarski's recommendation. But I don't know how  
10 to answer that. I don't know.
- 11 Q Have never seen a written document that addresses that?
- 12 A. Correct.
- 13 Q And no supervisor has ever given you a definitive  
14 statement regarding that issue; is that correct, also?
- 15 A. Correct.
- 16 Q And in any event, whatever the rule is, Hoffer could  
17 cancel it?
- 18 A. Correct.
- 19 Q Do you know of anybody in either Probation Department  
20 who was promoted over a more senior employee?
- 21 A. Only because a more senior employee turned it down.
- 22 Q And that example was?
- 23 A. On the Adult staff.
- 24 Q Did you ever hear Mr. Graham use the phrase peter meter?
- 25 A. Never.

1 Q Did you ever hear Mr. Graham or Mr. Osenkowski refer to  
2 a woman's genitalia as a bush?

3 A. Never.

4 Q Ever hear either of them refer to a woman's breasts as  
5 jeehoobees?

6 A. Never.

7 Q Ever hear either of them discuss or request female  
8 interns to dance on tabletops?

9 A. No.

10 Q Did you ever hear Mr. Graham referring to Mrs. Varner as  
11 she has no fucking sense, no fucking training or no  
12 fucking ability?

13 A. No.

14 Q As part of this litigation there were complaints brought  
15 before, there was a federal court Complaint, there was a  
16 Complaint filed with the EEOC which included an  
17 allegation by Mr. Varner that she had been discriminated  
18 because of her age.

19 Did you ever observe any conduct within the office  
20 that would indicate her age played any negative role in  
21 her terms and conditions of employment?

22 A. No.

23 Q By the way, would it be correct that you have no  
24 evidence yourself from firsthand knowledge that she's  
25 ever been sexually discriminated against or sexually

1 harassed?

2 A. No.

3 Q Do you know whether Mrs. Varner was ever restricted from  
4 access to any area of the courthouse while she was a  
5 probation officer?

6 A. I believe I've heard as a result of whatever this  
7 process is, and because of the proximity of where  
8 Mr. Graham's wife works, that she possibly isn't  
9 allowed -- I don't know any details but my recollection  
10 is was, yes, there are designated areas, maybe, that  
11 she's not to be. And I could be wrong that the two of  
12 them are related, but that's my recollection.

13 Q You essentially know that as scuttlebutt, right?

14 A. Correct.

15 Q You don't have any recollection of any superior officer  
16 telling you that?

17 A. Absolutely.

18 Q Have you ever been personally threatened with adverse  
19 consequences if you were to provide any assistance to  
20 Mrs. Varner in this litigation?

21 A. No.

22 Q To testify for her?

23 A. No.

24 Q To be friendly with her?

25 A. No.

- 1 Q There was a previous complaint many years ago by Kerry  
2 Houser regarding sexual harassment. Are you familiar  
3 with that?
- 4 A. Unfortunately.
- 5 Q Did you experience any adverse consequence yourself as a  
6 result of Mrs. Houser's complaint of sexual harassment?  
7 I think it was in 1993.
- 8 A. My perception was, yes.
- 9 Q Can you describe that for me?
- 10 A. Again, my opinion may change as I become wiser and  
11 older, but my assessment was that I was treated unfairly  
12 as a result of whatever my involvement was with that, in  
13 the nature of the types of cases that I was being  
14 assigned versus those gentlemen in the office who were  
15 supposed to be getting those types of assignments.  
16 Again, that simply was my own assessment and no way  
17 could I probably prove that.
- 18 Q Treated unfairly by whom?
- 19 A. By Mr. Osenkowski.
- 20 Q Not by Graham?
- 21 A. Not to my knowledge.
- 22 Q Is sexual banter unusual within your office?
- 23 A. I'll say between males.
- 24 Q It's common?
- 25 A. Please describe sexual banter.

1 Q References by men regarding women's looks, comments  
2 within your office?

3 A. Yes.

4 Q Or expressions by men of the degree to which a woman is  
5 attractive are common within the office?

6 MS. WALLET: I'm sorry, I didn't hear that, either.  
7 The degree to which?

8 BY MR. DELLASEGA:

9 Q Expressions by men of the degree to which particular  
10 women may or may not be attractive, is that common  
11 within the office?

12 A. Yes.

13 Q Not limited to Graham or Osenkarski?

14 A. Correct.

15 Q Virtually universal?

16 A. Yes.

17 Q Have you heard the same thing from women?

18 A. Yes.

19 Q In that sense, would you say sexual banter is common  
20 among both genders in your office?

21 A. Absolutely.

22 Q Do you have any evidence or reason to believe that  
23 Mrs. Varner's personal safety has ever been in danger  
24 because of the change in her relationship with  
25 Mr. Graham from friendly to --

1 A. No to my knowledge, no.

2 Q -- otherwise? Has anyone ever told you that?

3 A. I've heard rumors that there was additional security  
4 needed at some prior event, if you will, for whatever  
5 this process has been, as a result of an allegation.  
6 But I mean, that's the extent of what I know. I don't  
7 know any details.

8 Q Other than rumors, you have no reason to believe that  
9 she has any reason to fear for her personal safety?

10 A. Correct.

11 MR. DELLASEGA: That's all.

12 BY MS. WILLIAMS:

13 Q Hi, Mr. Brandt. I'm Paul Lancaster Adams and I  
14 actually represent Mr. Osenkowski in this matter.

15 Mr. Dellasega has done a pretty thorough job of  
16 asking you questions in the various areas, but I'm just  
17 going to pinpoint a few, and I promise I won't take as  
18 much time, okay? Thanks.

19 You testified a few moments ago that in the office  
20 there was a suspicion of a relationship between  
21 Ms. Varner and Mr. Graham. Do you remember those  
22 questions by Mr. Dellasega?

23 A. Yes.

24 Q Were those suspicions shared by women in the office as  
25 well?

- 1 A. I don't remember hearing conversations.
- 2 Q Anything that you may have heard through the rumor mill?
- 3 A. Not from a female, no.
- 4 Q So you wouldn't know if Kerry Houser was familiar with
- 5 the suspicion of a relationship between the two of them?
- 6 A. Only what she would have witnessed with her own eyes.
- 7 Q Okay. But you're not aware of yourself whether --
- 8 A. Kerry and I didn't speak to each other for quite a
- 9 period of time, so.
- 10 Q Why is that? If you don't mind me asking.
- 11 A. There was some resentment on my part for what took place
- 12 a long time ago, between myself, we touched on it, with
- 13 Mr. Osenkowski. I felt that that was entered into,
- 14 didn't need to be. As a matter of fact, Kerry promised
- 15 me in a probation function party, if you will, that she
- 16 wasn't going to pursue that, whatever it was that took
- 17 place, when, in fact, that's not what happened. As a
- 18 matter of fact, her husband at the time who was a very
- 19 good friend of mine was her attorney as well. And so
- 20 it's something that still to this day is very
- 21 uncomfortable, unfortunately.
- 22 Q I'm sorry this is an uncomfortable subject. Did
- 23 Ms. Houser share with you why she wasn't going to pursue
- 24 anything based on the comment?
- 25 A. Because she was fearful of what might happen to me.



- 1 Q What could happen to you?
- 2 A. I wasn't going to be harmed or anything like that.
- 3 Q How about Debra Green, do you know if Debra Green had
- 4 any suspicions of Ms. Varner and Mr. Graham's
- 5 relationship?
- 6 A. Not that we discussed.
- 7 Q What's your relationship with Ms. Green?
- 8 A. Very good.
- 9 Q You testified a moment ago also about the situation with
- 10 Kerry Houser and the complaint in 1993. Going back to
- 11 that moment for a moment, was Ms. Varner employed with
- 12 the Department at that time?
- 13 A. No.
- 14 Q Do you have any idea where she could have possibly heard
- 15 about such an event?
- 16 A. Well, I can only assume. Kerry was a Children and Youth
- 17 worker at one time, but I don't know that they were --
- 18 Children and Youth workers at the same time, and they
- 19 may have had a friendship even at that time. But I
- 20 don't recall. And many of us had relationships, working
- 21 and friendly, and I dated a co-worker of Barb's at that
- 22 time. So there was great commingling, if you will.
- 23 Q Okay. Would you say that Kerry Houser's relationship
- 24 with Ms. Varner is a close one, even today?
- 25 A. I think so.

1 Q Okay. How about her relationship with Debra Green?

2 A. As well.

3 Q And that goes outside the workplace for both of those  
4 individuals?

5 A. I don't know.

6 Q You spoke about Thomas Boyer's conversations with you  
7 about the seniority system and you said he -- you  
8 described it as conversations ad nauseam.

9 Can you, as much as it may be nauseating, can you  
10 describe what you meant by that?

11 A. I think you'll all find out at some point, but he will  
12 probably talk to you for several days about it. And  
13 that's just the nature of Tom Boyer.

14 Q Okay. Did he, for example, ask you and other Juvenile  
15 probation officers your opinion about the process? I  
16 mean, what would be the ad nauseam part of it besides  
17 him being --

18 A. The fact that he probably talked to me three days a week  
19 about it for the last seven years.

20 Q Why did he do that?

21 A. That's just his nature and his personality.

22 Q During the time of the split when there was a change of  
23 the seniority system, did Mr. Boyer ask you your  
24 personal opinion of the possible changes that will give  
25 you, or give you scenarios as to what, how you thought

1 things should be in the seniority system?

2 A. Not to that detail. Only again, what he would present

3 as this supposed new hierarchy dates of hire.

4 Q Okay.

5 A. There was no breakdown of what the structure would be

6 like.

7 Q Do you know if he asked other probation officers --

8 A. Oh, sure.

9 Q -- their opinion?

10 A. I'm sure.

11 Q Did he ask Ms. Varner her opinion about the change?

12 A. I'm sure -- well, I don't know. I don't know what his

13 relationship is with Ms. Varner.

14 Q Sure. Do you know what the consensus of the office was

15 in terms of the change? Did they like the change or did

16 they dislike the change?

17 A. It depended on whether or not you had previous

18 employment as a county employee in another department,

19 so that that may have changed from one person to the

20 next.

21 Q What's your opinion of Mr. Osenkarski?

22 A. I have no problems with Mr. Osenkarski.

23 Q How about Mr. Graham?

24 A. It was very friendly at one time. Unfortunately, I

25 don't know, not -- we don't have contact. This is maybe

1 the sixth time I've seen him in several years.

2 Q Okay. How about Ms. Varner?

3 A. We're friendly.

4 Q Are you friendly in the office currently?

5 A. Yeah. I have resentment towards what took place. I  
6 didn't think that this was personal towards me as far as  
7 this seniority issue, I may have just been the person  
8 who was at that spot on our seniority line, but  
9 naturally I felt some resentment and carried that. But  
10 I'm over it.

11 Q You felt some resentment for Ms. Varner during that  
12 process?

13 A. Sure.

14 Q Now that you both have been promoted or when you both  
15 were promoted the same day, did the resentment by  
16 Ms. Varner towards you leave at that point?

17 MS. WALLET: I'm sorry, I don't believe he said  
18 Ms. Varner had resentment toward him.

19 THE WITNESS: I didn't feel there was resentment.  
20 I perceived it as possibly being personal; however, she  
21 had never done anything to me that would give any merit  
22 to my thought.

23 BY MR. ADAMS:

24 Q Just for clarification, Ms. Varner possibly could have  
25 had some resentment towards you because of you maybe

1           being promoted before her? Is that a feeling that you  
2           were describing?

3       A.    No. I just thought that this issue was sort of a  
4           no-brainer with myself being employed as a probation  
5           officer for five years more than her, with the old  
6           system, that I couldn't see questioning that. I don't  
7           know what's in question. However, she has her own  
8           opinion and she's been a caseworker actually longer than  
9           I've been a probation officer, so that's her argument.

10      Q    Okay. Have you ever --

11      A.    And if I may also, I don't believe she had her  
12           bachelor's degree until after I became a probation  
13           officer, which is a prerequisite for earning the  
14           position of probation officer. Now, my example of the  
15           maintenance worker is a little -- stretches it, but I  
16           mean, I think you can understand what my opinion is.

17      Q    I appreciate that, thank you.

18                   Did you ever observe in the Probation, in the  
19           Juvenile Probation Department, staff members meeting  
20           with Mr. Osenkowski for issues of any sort? That's kind  
21           of a broad question.

22      A.    Sure.

23      Q    Did you ever approach, you yourself, approach  
24           Mr. Osenkowski about problems you may have had in the  
25           workplace or personal?

1 A. Never. Well, prior to unfortunately what took place  
2 between he and I in '93, I don't think he and I have had  
3 any discussions like that since then.

4 Q Have you ever observed anyone approaching Mr. Graham for  
5 issues or problems of any sort while in the Juvenile  
6 Probation Department?

7 A. Sure.

8 Q How would you describe Ms. Varner, I guess her demeanor  
9 while at work?

10 A. It's appropriate.

11 Q Would you describe Ms. Varner as a passive person or an  
12 aggressive person?

13 A. Neither.

14 Q Somewhere in the middle?

15 A. Sure.

16 Q Would you say she was assertive?

17 A. Are you asking me her job performance? I don't know  
18 that.

19 Q Whatever observations you would have come -- whatever  
20 you would have observed while in the workplace.

21 If there was a need to do something, was she  
22 assertive in doing --

23 A. I think she would make herself available, yes.

24 Q From your understanding, who were Ms. Varner's  
25 supervisors while in the Juvenile Probation Department?

1 A. Joe or Gary.

2 Q Did you ever observe --

3 A. And Mr. Boyer. Are we talking presently or just --

4 Q At all, on any occasion.

5 A. Well, Mr. Miller, and Mr. Thielemann.

6 Q Feelman?

7 A. Thielemann.

8 Q Fieldman?

9 A. T-H-I-E-L-E-M-A-N.

10 Q Did you ever observe Ms. Varner approach Mr. Thielemann

11 about any work-related issues?

12 A. No.

13 Q How about Mr. Miller?

14 A. I'm not aware of that.

15 Q How about Mr. Boyer?

16 A. Seen her approach him?

17 Q Sure.

18 A. No.

19 Q Okay. And more importantly, have you ever seen her

20 approach Gary Graham about a work issue?

21 A. No.

22 Q How about Mr. Osenkowski?

23 A. I don't recall, no.

24 Q How about approaching Mr. Graham or Mr. Osenkowski about

25 a personal issue?

1 A. Not to my recollection.

2 Q Mr. Osenkowski didn't discourage persons from  
3 approaching him, did he?

4 A. Never.

5 Q Would you say Mr. Osenkowski had an open door for issues  
6 that may have come up by his employees?

7 A. Absolutely.

8 MR. ADAMS: That's all the questions I have. Thank  
9 you.

10 BY MS. WILLIAMS:

11 Q Mr. Brandt, I'm Taylor Williams from the Supreme Court  
12 of Pennsylvania AOPC. I'm representing the Commonwealth  
13 of Pennsylvania Ninth Judicial District Court of Common  
14 Pleas of Cumberland County. The same ground rules that  
15 Mr. Dellasega spoke to you about still apply in our  
16 conversation, if you would.

17 You described a meeting that you had with Judge  
18 Hoffer?

19 A. Yes.

20 Q Did you keep any notes regarding that meeting?

21 A. Never.

22 Q Or make any contemporaneous --

23 A. No.

24 Q -- notes on a calendar?

25 A. I'm a horrible note taker, so no, I can emphatically say



1 no.

2 Q Do you remember the exact date of that meeting?

3 A. I could get it, because as I -- I can remember the  
4 juvenile who -- well, maybe his file's destroyed now.  
5 But I remember the juvenile and the purpose of the  
6 hearing, so that wouldn't be very difficult to figure  
7 out.

8 Q Would you get that date and report back to me on that?

9 A. If it's a must.

10 Q Yes, I would appreciate that. Thank you.

11 Did Judge Hoffer explain to you why he was asking  
12 the questions he asked you?

13 A. No.

14 Q You mentioned that you had a personal relationship with  
15 Judge Hoffer. Can you describe the nature of that  
16 relationship?

17 A. Only that he and I have -- I mean, we don't call each  
18 other on the phone or anything like that. But he and I  
19 have always been friendly, I would say more so than some  
20 others, only because I'm a social person, Judge Hoffer  
21 is a social person, for many years, I see him out in  
22 social settings. He and myself are both avid golfers,  
23 so we see each other frequently there as well and have  
24 some friendly competition in local tournaments, if you  
25 will.

1           So I mean, from that sense, that's the  
2           relationship. And many people for some reason struggle  
3           with Judge Hoffer, and I just -- I find him to be very  
4           approachable and personable with me personally.

5       Q     Did you know Judge Hoffer prior to your employment at  
6           the Probation office?

7       A.    Never.

8       Q     Did you ever talk with Judge Sheely about Gary Graham?

9       A.    Never.

10      Q     Did you ever talk to Judge Sheely about Ms. Barbara  
11           Varner?

12      A.    Never.

13      Q     Did you ever have a conversation with an EEOC  
14           investigator related to this matter?

15      A.    Possibly. Maybe.

16      Q     You're saying maybe. Do you remember?

17      A.    No.

18      Q     Any particular conversation with an EEOC investigator?

19      A.    The only thing I remember is meeting with an attorney  
20           downstairs many years ago. I don't really recall  
21           anything other than that.

22      Q     You don't recall getting a phone call from any EEOC  
23           investigator?

24      A.    I don't think so.

25      Q     Did you ever talk to Judge Sheely regarding the

1 seniority policy?

2 A. Never.

3 Q Did you ever talk to Judge Hoffer regarding the  
4 seniority policy --

5 A. Never.

6 Q -- in the Probation Department?

7 MS. WILLIAMS: That's all I have. Thank you,

8 Mr. Brandt.

9 MS. BLANCHARD: No questions.

10 BY MS. WALLET:

11 Q I am Debra Wallet, I represent Barbara Varner. I do  
12 have a number of questions for you. Would you like to  
13 take a break?

14 A. No.

15 Q All right. I would not mind taking a break, if that  
16 would be acceptable to you. Do you mind taking a  
17 10-minute break?

18 A. Go ahead.

19 (Recess taken from 10:41 until 10:56 a.m.)

20 BY MS. WALLET:

21 Q Mr. Brandt, before we took the break I introduced  
22 myself. My name is Debra Wallet. I'm here representing  
23 Barbara Varner in the litigation. Unfortunately, I do  
24 have to require you to go back to some ancient history.

25 Did you hear the comment, sir, about the cunt club

1 back in 1993?

2 A. Yes.

3 Q What did you hear?

4 A. Exactly what was taking place was I asked Mr. Osenkarski  
5 about an application process. It was at the time the  
6 hire of a young lady at the time who was named Nicole  
7 Herick, who is now Nicole Galbraith. I inquired as to  
8 what type of person she was. And Joe said that she was  
9 a nice young girl, then that she would not become a  
10 member or a part of the cunt club.

11 Q And what did you understand that reference, the cunt  
12 club, to be?

13 A. A group of -- maybe not a group, maybe only a pair of  
14 people consisting of Kerry, I don't know what her last  
15 name was at the time, and Julie Staver, someone who is  
16 no longer employed with us as well.

17 Q Were they the only two female probation officers at that  
18 time?

19 A. That would be my perception. I don't know if we had a  
20 list of who the cunt club was.

21 Q Now, you told this to someone else, correct?

22 A. I told it to Julie Staver, who was a personal friend of  
23 mine at the time.

24 Q And what, if anything, did Julie do?

25 A. I imagine she said something to Kerry.

1 Q And did Kerry ask you whether you had heard this?

2 A. I'm sure we did. We shared an office at the time.

3 Q At any time after Kerry Houser made her complaint

4 regarding this comment about the cunt club, did someone

5 come to you and ask you whether you had heard it?

6 A. Ken Bolze.

7 Q Did Mr. Bolze tell you why he was asking you about this

8 incident?

9 A. He headed the so-called investigation, I believe.

10 Q Did you give a written statement at that time?

11 A. I may have, but I don't recall.

12 Q And I take it you didn't deny that you had heard this?

13 A. Correct.

14 Q Now, you said that you thought initially that Ms. Houser

15 was not going to make a complaint?

16 A. That's what she and her husband told me.

17 Q Did she tell you why she initially was not going to make

18 a complaint?

19 A. That she didn't want to put me through whatever -- I

20 think it was something to that extent. And that may not

21 even be completely accurate any longer. Or it could

22 have been her husband. As I mentioned, he is to this

23 day one of my closest friends, her ex-husband.

24 Q Okay. In any event, you later learned that the

25 complaint had been made?

1     A.     Yes.

2     Q     And Mr. Bolze came to you and asked you about the

3           incident?

4     A.     I believe. I believe he was the person.

5     Q     Do you recall whether anyone else asked you about the

6           incident?

7     A.     Asked me if it took place?

8     Q     Yes, sir.

9     A.     I think by that time it had become scuttlebutt, but I

10          don't recall anyone asking me. I knew that it, its

11          event had leaked out and probably become a hot topic

12          within the Department, but I don't recall anyone

13          officially asking me.

14    Q     Had you heard this term cunt club before?

15    A.     I don't recall.

16    Q     Have you heard it since?

17    A.     Well, yeah. I've lived it for the last 10 years.

18    Q     And what do you mean by that, sir?

19    A.     Well, I mean, it happened.

20    Q     Did Joe ever speak to you, Joe Osenkarski, about this

21          incident after Ms. Houser made the complaint?

22    A.     One time.

23    Q     What did he say to you?

24    A.     I think he asked me that he wanted to make sure that he

25          got my version of this accurate, and that he was denying

1           that this had happened. And he had -- I believe he told  
2           me -- he called me in the evening and he may have said  
3           something to the effect that -- I knew that he had been  
4           calling other employees to talk to them about what took  
5           place, because I have many friends within the Department  
6           who told me that Joe had called them. Who exactly, I  
7           don't recall. So I didn't know if I was expecting a  
8           phone call and it did come, or if it was by surprise,  
9           but I had knowledge that he had spoken with others. And  
10          the reason for such calls were that he was speaking to  
11          them and getting their understanding of what their  
12          knowledge was and whether it happened or whether anyone  
13          heard him say that. And as I said, he eventually called  
14          me and the basis of it was he wanted to find out for  
15          sure whether or not -- what I was going to be telling  
16          happened.

17        Q       Did he suggest to you that you be anything other than  
18               truthful?

19        A.       He called me a liar.

20        Q       Had your relationship with Mr. Osenkowski prior to this  
21               incident been good?

22        A.       Fantastic.

23        Q       After this incident, did it change?

24        A.       Yes.

25        Q       How did it change?

1 A. We have little conversation. We get by the day  
2 professionally.

3 Q Do you respect Mr. Osenkowski as your supplier?

4 A. Not as a result of what took place then. He's done  
5 nothing else to me since this event. It's just this  
6 whatever has come to rest.

7 Q Did you believe that Mr. Osenkowski changed the nature  
8 of the assignments that you were given?

9 A. It was my perception, yes.

10 Q And you believed that it was because of your telling  
11 what he had said concerning the cunt club?

12 A. The timing of it would have made it too much of a  
13 coincidence.

14 Q Now, you said that there were some in the favored group  
15 and some in the not-so-favored group.

16 A. Correct.

17 Q I believe you identified that primarily as the senior,  
18 more senior people versus the less senior people.

19 A. I did not describe them as favored or not favored. Yes,  
20 senior and less senior.

21 Q All right. Do you agree that there were individuals who  
22 appeared to be favored with regard to assignments?

23 A. Only in comparison to what I was receiving as  
24 assignments. And the reason for that is because they  
25 held a position within the Department that was



1 supposedly only intensive probation supervision, meaning  
2 those children who proved to be the most difficult and  
3 most time-consuming from our point of view.

4 At the time, I was maintaining a caseload of  
5 additionally about 40 to 60 adults and 20-some-odd  
6 juveniles. My perception was that my juveniles in  
7 addition to all the adults I had to worry about, were  
8 far worse than any that the two intensive officers were  
9 receiving during a period of time. Could I prove that?  
10 No.

11 Q Did you express the opinion that you believed you had  
12 been retaliated against because you had reported this  
13 statement?

14 MR. ADAMS: Objection to form. Retaliation, it's  
15 not appropriate.

16 BY MS. WALLET:

17 Q Did you believe that the attitude toward you had  
18 changed as a result of this, and did you report that to  
19 any of your co-workers?

20 A. Did it change? Yes. Did I report it? No.

21 Q Did you complain to any of your co-workers, for example,  
22 Ms. Houser, that you believed that as a result of this,  
23 something had happened differently to you?

24 A. I don't -- I mean, did I complain to any one person? I  
25 don't recall.

1 Q Did you complain to anyone?

2 A. I think I complained probably every day for a period of  
3 a couple years, that running around in the type of work  
4 I was doing. I can't recall exactly what I said to any  
5 one person.

6 Q Now, at that time, back in 1992, '93, was Joe Osenkarski  
7 in the office regularly during the day?

8 A. I believe so.

9 Q When he was out either for vacations or some business  
10 reason, who took his place?

11 A. Mr. Graham.

12 Q Do you know whether Mr. Graham had any responsibility  
13 with regard to the assignment of cases?

14 A. Absolutely.

15 Q You said that you believed Mr. Osenkarski may have  
16 changed the kind of cases assigned to you as a result of  
17 your reporting the cunt club incident.

18 Do you have any reason to believe Mr. Graham was  
19 involved in those assignments?

20 A. No.

21 Q Did your perception of Mr. Graham's attitude toward you  
22 change?

23 A. No.

24 Q After the cunt club incident.

25 A. Correct. No.

1 Q Do you recall anyone who told you that Mr. Osenkarski  
2 had called them about the cunt club incident?

3 A. I can't recall a name, but I know that he had called  
4 others. It's a pretty small office so there's slim  
5 pickings here.

6 Q And those persons told you that Mr. Osenkarski had  
7 called them?

8 A. I believe so.

9 Q Do you have any recollection as to who told you that  
10 they had received a call from Mr. Osenkarski?

11 A. I know Darby Christlieb did, but I don't recall anyone  
12 else at the time.

13 Q And what did Mr. Christlieb tell you Mr. Osenkarski  
14 discussed with him?

15 A. I don't recall the details. Just the fact that he had  
16 called him.

17 Q Mr. Brandt, you were called into the judge's chambers by  
18 Judge Hoffer on a particular day and you're going to  
19 provide to us that day. You said that the conversation  
20 lasted more than an hour?

21 A. I think it did. It was a lengthy conversation. Don't  
22 hold me to the exact time, but we spoke for -- we spoke  
23 for a while.

24 Q Okay. And to the best of your recollection, he did not  
25 mention that this was a result of the Barbara Varner-

1 Gary Graham situation?

2 A. I think I had to assume that it was the tool that  
3 brought it to that level. But I, again, I specifically  
4 don't recall he and I discussing Barb and Gary.

5 Q And had you had what you've described today as a  
6 somewhat personal relationship with him as a result of  
7 golf?

8 A. Maybe I should rephrase personal because that's been  
9 taken out of context. I would say a friendly work  
10 relationship.

11 Q Okay.

12 A. Okay? That has on occasion been in the same place  
13 outside of this building at the same time and we are  
14 also friendly there. And he has a very friendly  
15 relationship with my wife, who is a former employee of  
16 this building, who my perception was he loved dearly.  
17 So maybe because of that relationship I rode her coat  
18 tails, I don't know.

19 Q Okay. In any event, Judge Hoffer you believe trusted  
20 your opinion about what was going on in the office?

21 A. I believe he did.

22 Q And he was interested in hearing your opinion about how  
23 things were operating in the Probation office at that  
24 time?

25 A. Yes.

1 Q Now, he asked you specifically about how Mr. Osenkowski  
2 ran the office.

3 A. Yes.

4 Q What did you tell him?

5 A. I don't recall exactly what we -- what my answer was.

6 Q Did you indicate to Judge Hoffer that you had lost some  
7 respect for Mr. Osenkowski as a supervisor?

8 A. As I stated earlier, as a result of something different,  
9 I had lost respect. But did I say it to Judge Hoffer?  
10 That I don't remember.

11 Q I did not understand what you just said.

12 A. I don't remember if I told him I lost respect for Joe.

13 Q Okay. Were you critical of Mr. Osenkowski in your  
14 conversation with Judge Hoffer?

15 A. I don't think he, and knowing Judge Hoffer, cared about  
16 opinions. He was looking for firsthand information.  
17 So, I don't recall him asking my deepest darkest  
18 thoughts. I think he was asking what do you see with  
19 your own eyes.

20 Q All right. Do you recall what facts you reported --

21 A. No.

22 Q -- to Judge Hoffer at that time?

23 A. It would have been strictly information on the hierarchy  
24 and whose performance, who does what, who's responsible  
25 for what, and how does the chain of command flow down

1 through your own department.

2 Q Okay. Now, you said that you initially refused to

3 answer his questions.

4 A. Sure.

5 Q Why did you initially refuse?

6 A. Because I didn't want to sit here. I knew this was

7 coming.

8 Q And when you say sit here, you didn't want to be

9 involved in some litigation?

10 A. Correct.

11 Q That was your initial reaction. Did that change during

12 the course of the conversation with Judge Hoffer?

13 A. When he told me that I wouldn't have to worry about

14 repeating any of this again.

15 Q And so then you were forthcoming with him?

16 A. Yes.

17 Q Isn't this a situation where he was asking you specific

18 questions and you would respond to those questions? Or

19 did he --

20 A. Just like this.

21 Q Open-ended question?

22 A. He deals with me like an attorney at all times, so it's

23 always as if I was on the stand.

24 Q So he would pepper you with specific questions?

25 A. Yes.

1 Q Now, by that point in time, and you think this could  
2 have been '97, '98, do you know whether he was president  
3 judge at the time of this conversation?

4 A. I have to think yes. Well, he had to have been because  
5 Judge Sheely was Juvenile judge.

6 Q Okay.

7 A. And he had retired and Hoffer had become Juvenile judge  
8 then.

9 Q All right. And if I were to tell you that the change  
10 between Judge Sheely and Judge Hoffer occurred at the  
11 beginning of the year of 1998, would you believe that to  
12 be correct?

13 A. That could be.

14 Q All right. So you think this conversation was sometime  
15 after the beginning of the year of 1998?

16 A. Bear with me. I don't know.

17 Q Okay, fine. By that point in time was Mr. Osenkowski  
18 spending a full day in the office?

19 A. Define full day.

20 Q Well, let me ask more directly. Did you observe in or  
21 around 1996, '97, '98, that Mr. Osenkowski was not  
22 spending as much time in the office?

23 A. As a rule I know that Joe comes into the office late in  
24 the morning. What he does after I leave here at 4:30, I  
25 can't answer to. I know that when I was a much more

1 dedicated employee, that I would see him numerous  
2 occasions in the evening hours here, if I would be here.  
3 So a full day, again, may have been something that  
4 started much later in the day than my full day had  
5 become. So I don't -- would he come in later in the day  
6 than I did? Yes.

7 Q Okay. And did you discuss that issue with Judge Hoffer?

8 A. Possibly.

9 Q Did you think it was strange the hours that  
10 Mr. Osenkarski put in as a supervisor?

11 MR. THOMAS: Objection to form.

12 BY MS. WALLET:

13 Q You may answer.

14 A. Strange? Not normal.

15 Q You thought it was not normal?

16 A. I would think the Department head would be there when  
17 his employees are there for the most part. I mean, I  
18 know there's exceptions, but that's not my -- I've never  
19 walked a mile in his shoes, so I don't know that.

20 Q Okay. In any event, you don't recall that that was a  
21 specific topic with Judge Hoffer?

22 A. It very well could have been, but I don't recall that.

23 Q Did Judge Hoffer ask you any specific questions about  
24 the relationship between Mr. Osenkarski and Mr. Graham?

25 A. I don't recall if he did.



1 Q Do you remember anything today about that meeting with  
2 Judge Hoffer, specifically the subjects that were  
3 covered?

4 A. Again, responsibilities of certain people.

5 Q When you say responsibilities, can you be more specific?

6 A. What does each supervisor in our chain of command do  
7 between 8:00 and 4:30, what are his functions and  
8 responsibilities.

9 Q Okay. Do you remember any other topics of conversation  
10 during that meeting with Judge Hoffer?

11 A. No.

12 Q You made a decision to remain on the Juvenile Probation  
13 side after the split. Why was that, sir?

14 A. I enjoy -- well, I prefer working with a juvenile than  
15 an adult.

16 Q Was it your choice --

17 A. Absolutely.

18 Q -- whether or not to stay or go?

19 A. Absolutely.

20 Q Were you given any promises to stay in Juvenile?

21 A. No.

22 Q As a result of your staying in Juvenile, did you report  
23 to someone other than Mr. Osenkowski?

24 A. I don't recall at what point Mr. Graham became my  
25 supervisor versus Mr. Osenkowski, but it was in that

1 time frame.

2 Mr. Osenkarski as our chief has little to zero  
3 effect on what I do between 8:00 and 4:30, and it  
4 remains that way there today. So I'm assuming that  
5 around that time frame all questions went to Mr. Graham.  
6 Or even Mr. -- I don't know what time Mr. Boyer became a  
7 supervisor, but it was roughly within the year,  
8 thereabouts. I'm not sure.

9 Q Okay. Run through with me the supervisory chain.  
10 Initially you reported directly to Mr. Osenkarski when  
11 you were an intern?

12 A. He was the Juvenile supervisor at the time. I also had  
13 interaction with the chief, who was Ken Bolze at that  
14 time. And he would have been chief over all operations.  
15 Joe specifically was supervisor of the Juvenile  
16 operations. And underneath him at that time dating back  
17 would have been Gary as a PO-II with supervisory  
18 responsibilities.

19 Q Over you?

20 A. Over any Juvenile matter.

21 Q Okay. And did Mr. Graham remain your supervisor until  
22 the split?

23 A. Well, Mr. Osenkarski -- I apologize if it's confusing --  
24 he was my supervisor I believe until the split or the  
25 leaving of Chief Bolze, at which point Gary became my

1 supervisor.

2 Q Okay. And was Mr. Graham your supervisor until  
3 Mr. Graham left to go to the institution?

4 A. Yes.

5 Q And then after Mr. Graham left, who became your  
6 supervisor?

7 A. Well, we -- not we, they itemized responsibilities  
8 administratively and changed some things drastically  
9 from the way we used to operate. And Mr. Boyer had  
10 taken over as a supervisor of certain functions. At  
11 some point shortly thereafter, Mr. Thielemann became a  
12 supervisor of certain functions. And most recently,  
13 Mr. Miller has become.

14 Q So currently Mr. Miller is your supervisor?

15 A. He's actually my, yes, immediate supervisor.

16 Q He does your performance evaluations and such?

17 A. Yes.

18 Q Now, you said that, and let's talk about the time, oh,  
19 let's say between 1993 and the split, let's focus on  
20 that time until we change the time frame. Are we clear  
21 on that?

22 A. Um-hum.

23 Q Okay. During that period of time, do you know how many  
24 female probation officers there were?

25 A. We were a combined office then.

1 Q Yes.

2 A. Well, I'll have to name them out loud, it's the only  
3 way. Betsy Baker. Kerry Gorman Smith Houser Vohs, I'm  
4 not sure what her last name was at the time. Nicole.

5 Q Galbraith?

6 A. Well, she was Herick at the time. Julie Staver left in  
7 '93 or '94. Debra Graef left -- no, I'm sorry she left  
8 in '92. And I apologize to anyone that I'm forgetting,  
9 but I don't recall anyone else.

10 Q Mr. Brandt, did you believe that the assignments that  
11 were given to Ms. Houser were less favorable after she  
12 made her complaint regarding the cunt club?

13 A. No, I don't, because she -- we didn't have a lot of  
14 female Juvenile specific -- we didn't have any specific  
15 female-only Juvenile probation officers. But as it only  
16 makes sense for some reasons for a female to supervise a  
17 female client, and you know, Kerry for a long period of  
18 time handled some of our worst female juveniles, and  
19 there weren't that many options for her to go to. You  
20 don't want a male hand to hand with a young female  
21 because of allegations. So you know, it just so happens  
22 she was a -- because of the way things worked out, I  
23 think for a long period of time she did handle our worst  
24 kids, female kids.

25 Q Okay. Did she ever complain to you she thought her

1 treatment was different after she made the complaint?

2 A. No.

3 Q Do you believe that the females were treated the same as  
4 the male probation officers? And I'm talking about the  
5 same time frame up until the split.

6 A. Yes.

7 Q Did you see any difference in which the females were  
8 treated as opposed to the male probation officers?

9 A. The only difference in that you would rarely see a  
10 female probation officer assigned a male of incredible  
11 physical stature, for obvious reasons. I don't recall  
12 any of our female probation officers receiving  
13 exceptionally large men that they might have to arrest  
14 some day. Other than that, no.

15 Q Were there any rules about when commitment trips needed  
16 to start? Do you understand the question?

17 A. The time of day?

18 Q Yes.

19 A. I guess it would depend on whether or not there was a  
20 court proceeding the same day, or if the commitment was  
21 on a day -- some day later than a court process. It was  
22 at the -- to easily answer it, it was always at the  
23 discretion of the probation officer. We were never  
24 questioned because, I mean, it took up a great deal of  
25 your time, so I mean, it had to fit your own schedule.

1 Q All right. So that when you had an assignment for  
2 taking a juvenile to someplace for commitment, you would  
3 use your professional judgment as to when you would  
4 leave and when you would return?

5 A. Sure.

6 Q Did anyone ever tell you that you needed to start those  
7 commitment trips only at eight o'clock in the morning?

8 A. No, because I as a rule woke up very early in the  
9 morning to do them, so I know that no one could have  
10 told me not to.

11 Q Were there times when you left for commitment trips  
12 prior to 8:00 a.m.?

13 A. All the time.

14 Q Now, did you have an incident in a stairway with  
15 Mr. Graham in which you and he had some discussion?

16 A. No words were said.

17 Q What happened?

18 A. I don't recall the date. It was within the last two  
19 years. I was walking down a staircase within the  
20 building here. Simultaneously, Gary had come out of a  
21 door a half a staircase above me. As he came down and I  
22 was walking up, when he went to turn the staircase, he  
23 struck with his hand the metal railing hard enough that  
24 I thought he may have hurt his hand but he must have hit  
25 it with a ring because it created a very loud noise.

1 And I just perceived that to be Gary's disinterest -- or  
2 not disinterest, but being upset with me.

3 Q Do you believe this was a deliberate act directed at  
4 you?

5 A. I don't think he tripped.

6 Q Do you believe it was a deliberate act directed at you?

7 A. Yes.

8 Q And why do you think he took that action?

9 A. Out of frustration.

10 Q Did you take it to be threatening?

11 A. I'm not afraid.

12 Q Did you believe Mr. Graham intended it to be threatening  
13 to you?

14 MR. ADAMS: Objection.

15 MS. BLANCHARD: Objection.

16 MR. ADAMS: Requires speculation.

17 BY MS. WALLET:

18 Q You may answer.

19 A. Possibly.

20 Q Why do you think Mr. Graham did this?

21 A. Frustration.

22 MS. BLANCHARD: Objection.

23 BY MS. WALLET:

24 Q Was he frustrated at you?

25 A. I think Gary perceives me as being a portion of or a

1 part of or a percentage of where he is at the current  
2 time.

3 Q And that meaning?

4 A. Where his place of employment is.

5 Q Do you know whether Mr. Graham knew that you had had  
6 this conversation with Judge Hoffer about what happened  
7 in the office?

8 A. I had only heard rumors that his perception was that I  
9 willingly went to Hoffer to offer opinions or what have  
10 you about him. But again, that got to me through  
11 rumors. He had never said that to me.

12 Q Had you observed Mr. Graham to engage in conduct which  
13 could be described as punishing?

14 A. Not to me.

15 Q Was it understood within the office that Mr. Graham  
16 would reward or punish individuals depending upon his  
17 perceived -- his perception of their loyalty to him?

18 A. I never heard that.

19 Q Did Mr. Graham ever make any other threatening gestures  
20 to you?

21 MR. ADAMS: Objection. Has it been described as  
22 threatening? I don't think it's been characterized as  
23 threatening.

24 MS. WALLET: I'll withdraw that.

25 BY MS. WALLET:



1 Q Did Mr. Graham ever engage in any other conduct such  
2 as what you described in the stairwell that might be  
3 threatening to you?

4 MR. ADAMS: Objection again. You may answer.

5 THE WITNESS: On one occasion as employed as a  
6 security officer at the Trinity High School, I knew that  
7 his daughter was there for a dance, I believe it was a  
8 dance. And I had been working there doing security type  
9 things for them for several years and have watched, I  
10 can't remember the names of his daughters anymore, but I  
11 know that one shows up for functions, not very often,  
12 but I do see Gary occasionally. And generally Gary or  
13 his wife will come and pick them up after an event.

14 On that particular night I think Gary knew that I  
15 was there, either that he saw me, I knew that -- he knew  
16 I was there. And he was one of the very last people --  
17 I was in the parking lot. I had left the school walking  
18 out to my vehicle and sat in it. And the parking lot  
19 had cleared. And Gary picked up his daughter and I  
20 believe her date or a friend, and had people in the car.  
21 And as he turned to depart the parking lot, he drove  
22 within half of a car's length beside me, passing me.

23 I don't know if it was intended in a threatening  
24 manner, but he could have exited the parking lot by many  
25 hundreds of feet in any other direction, and he chose to

1 drive right past my vehicle, I don't know, to show that  
2 he knew I was there or what. But that's the only other  
3 incident.

4 Q Did you believe your safety at that time was threatened?

5 A. No.

6 Q Did you believe the act was deliberate?

7 A. Yes.

8 Q Why did you believe that act was undertaken by  
9 Mr. Graham at that time?

10 MR. THOMAS: Objection. Why did he believe  
11 Mr. Graham believed?

12 MS. WALLET: Yes.

13 MR. THOMAS: You're asking him to speculate as to  
14 Mr. Graham's state of mind?

15 MS. WALLET: I am.

16 MR. THOMAS: I'm going to object.

17 You can answer.

18 BY MS. WALLET:

19 Q You may answer.

20 A. Just so that I knew that he knew that he was there, if  
21 you understand what I mean by that.

22 Q You said that bad language was pretty customary in this  
23 office. Did you hear bad language from the female  
24 probation officers?

25 A. You mean in the form of a four-letter word?

1 Q Yes, sir.

2 A. Sure.

3 Q Which female probation officers used the F word?

4 A. Are we talking about repeating what someone else said?

5 Or just as a part of their normal vernacular?

6 Q Let's take it separately. There might be occasions when

7 a female probation officer would repeat what had been

8 said to her or in conversation with someone that was

9 being supervised, correct?

10 A. Um-hum.

11 Q Okay. Were there other instances where female probation

12 officers used the F word directed at someone or in

13 conversation?

14 A. I don't recall specifically.

15 Q Did you ever hear Ms. Varner use the F word?

16 A. No.

17 Q You've known her for 10 or 12 years?

18 A. 13, almost.

19 Q Okay. Are you fairly familiar with her speech patterns?

20 A. Yes.

21 Q Does she use foul language?

22 A. No.

23 Q Can you think of any other female probation officers

24 that would have used the F word in some direct address?

25 A. No.

- 1 Q Was it used by the male probation officers?
- 2 A. Yes.
- 3 Q Was it used in front of the female probation officers?
- 4 A. I'm sure it has on occasion.
- 5 Q Are you familiar with the reputation of Mr. Graham
- 6 within the Adult Probation office?
- 7 A. Reputation?
- 8 Q What do the Adult probation officers think of
- 9 Mr. Graham?
- 10 A. I only know that he has conversations with them about
- 11 this entire process and I think they are generally tired
- 12 of that, but other than that, I don't know. No one
- 13 talks about him. I think many of them, as the office
- 14 has evolved and changed, didn't even know about this
- 15 whole thing and probably are fairly clueless.
- 16 Q Would you say that Mr. Graham has a reputation for being
- 17 an excitable individual?
- 18 A. Yes.
- 19 Q Does he have a reputation for being a violent
- 20 individual?
- 21 A. Violent?
- 22 Q Yes.
- 23 A. No.
- 24 Q Does he have a reputation for punishing individuals who
- 25 he perceives not to side with him?

1 A. As far as assigning work?

2 Q Punish in any sense.

3 A. Not that I'm aware of.

4 Q Are you concerned today about any retaliation against  
5 you for participating in this deposition?

6 MR. ADAMS: Objection to form.

7 THE WITNESS: From who?

8 BY MS. WALLET:

9 Q From anyone.

10 A. No.

11 Q Has any other probation officer expressed to you their  
12 fear that there may be retaliation if they participate  
13 in this litigation?

14 MR. ADAMS: Again, I'm going to object to the word  
15 retaliation. It's a conclusive statement, it's not  
16 appropriate.

17 But you may answer.

18 THE WITNESS: I have heard numerous people say they  
19 were fearful, but I don't know if it's retaliation.

20 Again, Mr. Osenkarski does not affect what I do between  
21 8:00 and 4:30. As the Department head he doesn't have  
22 his hands in what I would refer to as probation work.

23 BY MS. WALLET:

24 Q You feel that you've been insulated from him as far as  
25 his ability to affect your work performance?

1 MR. ADAMS: Objection. That's not what he  
2 described.

3 THE WITNESS: As an administrator he has  
4 responsibilities that are far separate to things I have  
5 to worry about, and he doesn't have to worry about what  
6 I do. So his responsibilities and mine are far  
7 different and doesn't have anything to do with what I do  
8 between 8:00 and 4:30, so I don't believe that he can  
9 affect me.

10 BY MS. WALLET:

11 Q Who told you they might be fearful about participating  
12 in this litigation?

13 A. Debra Green.

14 Q What did she tell you?

15 A. She was afraid that Tom Boyer and Kathy Zeigler would  
16 be -- would punish her as a part of becoming a part of  
17 this.

18 Q Did you think she had any reason to believe that this  
19 might be the case?

20 A. I think her perception is that they're very close with  
21 Joe.

22 Q Do you think that's accurate?

23 A. I think it's a little worrisome, quite honestly.

24 Q And why would you say it's a little worrisome?

25 A. I don't perceive it to be a threat, if that's the word

1           we're using here, so I don't -- I think anyone else  
2           looking at it from their own point of view shouldn't  
3           also see it as a threat.

4       Q     I guess my question, sir, is: Do you think Ms. Green  
5           has some reasonable basis to believe --

6       A.    In her mind, I guess she does. I think that there  
7           are -- there's nothing to merit that.

8       Q     Have you observed any times when Mr. Boyer has changed  
9           his relationship with individuals because of a perceived  
10          siding with Mr. Graham as opposed to siding with  
11          Ms. Varner?

12               MR. THOMAS: Objection to the form.

13               You may answer it if you understood it.

14               THE WITNESS: I mean, because of specifically those  
15          reasons? I don't recall him changing his relationship  
16          specifically because of this, these two individuals.

17       BY MS. WALLET:

18       Q     For reasons maybe unrelated to this, has Mr. Boyer  
19          changed his attitude toward individuals?

20       A.    Yes.

21       Q     In what way?

22       A.    He's his own person. He's very different. I don't know  
23          how his mind works.

24       Q     Would you say that Mr. Boyer tends to be allied more  
25          with Mr. Graham as opposed to Ms. Varner?

1 A. No.

2 Q The other way around?

3 A. No. Neither. I'd say he was, is somewhere in the  
4 middle of the fence.

5 Q Sir, do you have any evidence of your own personal  
6 knowledge that there was a sexual relationship between  
7 Mr. Graham and Ms. Varner?

8 A. I have no firsthand knowledge.

9 Q Do you have any secondhand knowledge?

10 A. Only in seeing them interact as very friendly and  
11 pondering whether or not there's something more than a  
12 work relationship.

13 Q Did anybody ever tell you that they had seen Mr. Graham  
14 and Ms. Varner engage in a personal relationship?

15 A. No.

16 Q Now, I believe you told us that you thought the women in  
17 the office, the female probation officers generally  
18 didn't think that there was an affair between Mr. Graham  
19 and Ms. Varner. Is that correct?

20 MR. ADAMS: Objection. That's not what he said.

21 He said he didn't know, I think.

22 BY MS. WALLET:

23 Q Well, I believe you were asked whether the men in the  
24 office thought that there was such an affair and I  
25 thought you answered yes. Did I misunderstand?



1 A. I think a person of reasonable mind would have assumed  
2 or thought or pondered for a half of a second as to the  
3 likelihood. But I don't recall people sitting around  
4 and discussing it, men, discussing this relationship, if  
5 it was something like that.

6 Q Okay. Do you remember the women doing that?

7 A. No.

8 Q Who was your office partner for some 13 years?

9 A. Well, he hasn't been my office partner, but we have  
10 partnered, if you will. Darby Christlieb.

11 Q Now, you said that you believed that you met with an  
12 attorney but you did not know his name. Someone who  
13 asked you questions about --

14 A. Yes.

15 Q -- this litigation.

16 A. Correct.

17 Q If I were to suggest the name of David Deluce?

18 A. That's it.

19 Q Okay. Do you believe that Mr. Deluce met with you on  
20 more than one occasion, or just one?

21 A. I know we had many conversations over the phone trying  
22 to align the meeting. I know we met at least once. I  
23 can't recall if it was more than that.

24 Q Did you provide to him any kind of a written statement?

25 A. I don't remember if I did. I really don't think I did.

1 Q Okay. And what kinds of things did Mr. Deluce ask you  
2 about this litigation?

3 A. I can't remember that. I remember him and what he looks  
4 like, and that he wrote in red, but I don't recall any  
5 longer what he and I discussed.

6 Q Do you remember anything that he might have asked you?

7 MR. THOMAS: I'm going to interpose an objection.  
8 We continue to assert our objection to this as attorney  
9 work product or attorney-client material. You're now  
10 asking him specific information which he may have  
11 rendered to counsel retained by the county, and I'm  
12 going to object to that line of questioning and instruct  
13 him not to answer.

14 BY MS. WALLET:

15 Q Did Mr. Deluce give you any legal advice?

16 A. Not that I -- I wish. I don't recall. I've been  
17 waiting for my court-appointed counsel.

18 Q Did Mr. Deluce ask you questions and you answer them?  
19 Or did he ask you to tell him everything that you knew  
20 about the situation?

21 A. Our meeting wasn't long, so I'm sure he didn't ask me  
22 opinions. I don't think it was lengthy. I think it was  
23 a question-and-answer form.

24 Q Did Mr. Deluce tell you why he wanted to talk to you  
25 about this matter?

1                   MR. THOMAS: Objection to the question. Don't  
2                   answer that.

3       BY MS. WALLET:

4       Q       Did Mr. Deluce at any time tell you that he was  
5               investigating something?

6       A.       Again, I don't remember.

7       Q       Do you remember anything more about your conversation  
8               with Mr. Deluce than what you've already told me?

9       A.       He had dark hair.

10      Q       Did you hear a rumor that Mr. Graham was going to be  
11              fired?

12      A.       As a result of this entire process?

13      Q       For any reason.

14      A.       Sure.

15      Q       Do you recall when you heard that rumor?

16      A.       No. To a specific day? No. But has the entire office  
17              sat around and fantasized or theorized about the outcome  
18              of this on a zillion occasions, with that being one of  
19              the possible outcomes? Yes.

20      Q       Did Mr. Osenkowski ever say to you or say that you had  
21              overheard that Mr. Graham might be fired?

22      A.       Never.

23      Q       Did you have any discussions with Mr. Osenkowski about  
24              the allegations that Ms. Varner brought against  
25              Mr. Graham?

1 A. Never.

2 Q Did you have any specific conversations with Mr. Graham  
3 about the allegations that Ms. Varner brought against  
4 him?

5 A. Never.

6 Q Did you ever hear any other comments in the office that  
7 were demeaning toward the other female probation  
8 officers?

9 A. Other than the cunt club?

10 Q Yes, sir.

11 A. No.

12 Q Did you ever hear Mr. Boyer make any comments about  
13 women getting further on their knees?

14 A. No.

15 Q You said you did have some conversations with Mr. Graham  
16 about some, I think you described it as flings that he  
17 had before his marriage. Is that correct?

18 A. Correct.

19 Q What do you remember about that, sir?

20 A. I don't recall details, but I recall him speaking about  
21 someone that he had dated. I don't even know what age  
22 he would have been, but I mean, the details of what took  
23 place I don't recall.

24 Q Did he indicate that he had had a sexual relationship  
25 with these people?

1 A. I'm assuming so. That's what the discussion was.

2 Q Did you ever hear him say that a woman had appeared at  
3 his door wearing a coat and nothing more?

4 A. Yes, I've heard that. I don't recall if Gary told me  
5 that.

6 Q What do you remember about that?

7 A. You saying it, I certainly remember that.

8 Q Now, under the, what I'll call the Sheely position, did  
9 you see seniority lists that were posted that listed the  
10 probation officers based on their seniority rank?

11 A. What I saw was a list of probation officers simply  
12 categorizing them by their date of hire and as a  
13 reference, so. But I mean, it wasn't headed as our  
14 current seniority list.

15 Q Okay.

16 A. But I have seen a list like that with dates of hire on  
17 them for the purposes of everyone must drive our county  
18 vehicles, we have to have their drivers' licenses and  
19 all that and insured and such. I mean, I've seen lists  
20 for those reasons, but not because it was a seniority  
21 list.

22 Q Okay. And on those lists, what date of hire was listed  
23 for you?

24 A. Generally speaking, my anniversary and my check, because  
25 I guess that's the most significant thing here, comes in

1           October of '90 -- yes, October of '90 being the start.

2       Q       Did you ever see any lists that ranked the probation  
3               officers in order of seniority?

4       A.       No.

5       Q       In your experience has anyone ever received a promotion  
6               within the Probation office other than on the basis of  
7               seniority and other than the one you described where the  
8               most senior turned the job down?

9       A.       I haven't seen it happen yet.

10      Q       So based on your experience, the only time anyone ever  
11               got promoted was when they were the most senior?

12      A.       Correct.

13               MS. WALLET: Mr. Brandt, thank you very much for  
14               your time. That's all the questions I have.

15               MR. DELLASEGA: Anybody else have anything?  
16               Mr. Brandt, I think you're done.

17               MS. WILLIAMS: Mr. Brandt, I'm going to give you my  
18               card, and if you would find that date, please.

19               THE WITNESS: I'm leaving today -- what time frame  
20               are we talking here?

21               MS. WILLIAMS: You don't need to do it -- within  
22               the next week or so, if you could and just give me a  
23               call. The county won't have any problem with the phone  
24               bill. Just give me a call and I'll let other counsel  
25               know.

1 MS. WALLET: Mr. Brandt, I don't know that it's my  
2 job, but I think someone should tell you that you do  
3 have the ability to review the transcript of this  
4 deposition and to determine whether or not you believe  
5 that it was accurate or whether you wanted to make any  
6 changes in that transcript. You have the ability to do  
7 that. Would you like to do it?

8 THE WITNESS: Absolutely.

9 MR. DELLASEGA: That's fine.

10 (Whereupon, the deposition was concluded at  
11 11:50 a.m.)

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COMMONWEALTH OF PENNSYLVANIA )  
 ) SS.  
COUNTY OF DAUPHIN )

I, Emily R. Clark, Reporter and Notary Public in and for the Commonwealth of Pennsylvania and County of Dauphin, do hereby certify that the foregoing testimony was taken before me at the time and place hereinbefore set forth, and that it is the testimony of:

WILLIAM A. BRANDT

I further certify that said witness was by me duly sworn to testify the whole and complete truth in said cause; that the testimony then given was reported by me stenographically, and subsequently transcribed under my direction and supervision; and that the foregoing is a full, true and correct transcript of my original shorthand notes.

I further certify that I am not counsel for nor related to any of the parties to the foregoing cause, nor employed by them or their attorneys, and am not interested in the subject matter or outcome thereof.

Dated at Harrisburg, Pennsylvania, this 17th day of April, 2003.

Emily R. Clark  
Reporter - Notary Public

(The foregoing certification does not apply to any reproduction of the same by any means unless under the direct control and/or supervision of the certifying reporter.)